1944.

File No. O. Ct. Fees/44

Legal Department

A **BRANCH**

Subject:—

opinions under the

Court Fees Act, 1870

E/S

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Gen. 194 e.

75-A

C O N T E N T S.

Legal Department File No. O. Ct. Fees / 44.

Sr.No.	R.I./O.No.	Subject :	Pages.
		Opinions under the Court Fees Act, 1870.	
1	O.Ex.1813/9-3-44.	Whether the application for solvency certificate made to a Mamlatdar as a Revenue officer would fall under Art, 1(a) or 1(b) of sch.II to the Court Fees Act,	3-4
2	O.Ex.3409/20-6-44.	Question regarding moving High Court to ~~ex~~ issue orders entitling the criminal courts to levy surcharge authorised by the B'bay Act,XV of 1944 on the fees fixed by the High Court under rules framed in accordance with the powers given to it by sec. 35 of the court fees Act.	5-6
3	O.No.8235/23-12-44.	Whether an application or petition made to the Brick Controller, B'bay for a permit under the building (control and construction) Order, 1943, requires any court fee under Art, 1(b) in Sch.II to the court fees Act.	7-8

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Office of the R.L.A.

An application made to a Mamlatdar for a solvency certificate would be liable to a court-fee of eight annas under ✱ Article 1(b) of Schedule II to Court-fees Act, 1870.

Id/-

P.H.H.

7-3-44

Remembrancer of Legal Affairs.

U.R. to R.D.NO.1813,dated the 9th March 1944.

R.D.P.
11/7/56

S.C.

Office of the R.L.A.

Section 3 of the Bombay Increase of Court-fees Act XV of 1943 lays down that the provisions of the principal Act shall, save in so far as they are inconsistent with anything herein contained, apply for the purposes of this Act. Under section 20 of the Court-fees Act, 1870 the power to make rules as to the process fees chargeable for serving and executing processes issued by the Civil and Criminal Courts vests in the High Court; and the High Court may from time to time alter and add to the rules so made. It would therefore appear that the process fees are levied as prescribed by rules made by the High Court. Consequenlty although the point is not free from doubt section 2 of Bombay Act, XV of 1943 would be no authority for increasing the process fees unless the rules made by the High Court under section 20 of the Court-fees Act are amended for the purpose.

Id/-

P.N.M.

9/5/44.

Remembrancer of Legal Affairs.

U.R. to MJD.No.3409, dated the 10th May 1944.

R.D.P.
11/7/56

S.C.

Office of the R.L.A.

Under Article 1(b) in Schedule II to the Court-fees Act, 1871 an application or petition when presented to a Civil or Criminal or Revenue Court or to a Collector or any Revenue Officer having jurisdiction equal or subordinate to a Collector or to any Magistrate in his executive capacity and not otherwise provided for is liable to a court-fee of eight ~~xx~~ annas. The Brick Controller for the Province of Bombay is not a Civil or Criminal or Revenue Court, not is he a revenue officer having jurisdiction equal or subordinate to a Collector. Consequently an application or petition made to him for a permit under the Building (control of Construction Order, 1943 requires no court-fee under Article 1(b) in Schedule II to the Court-fees Act.

Under the Bombay (Districts) Building (Control of Construction) Order, 1944 the Dirstrict Magistrate is invested with power to grant a written permit for erecting, reerecting, constructing or altering any building. An application or petition to the District Magistrate for the grant of a written permit under the Order will be deemed to be one presented to a Magistrate in his executive capacity within the meaning of Article 1(b) Schedule II to the Court-fees Act. Such application or petition would therefore be liable to a court-fee of eight annas.

To reconcile the inconsistency between the two Building (Control and Construction) Orders in relation to court fees on applications or petitions for a permit it will be necessary either to amend the Bombay (Districts) Building (control of Construction) Order, 1944 exempting application or petitions for a permit from payment of ~~any court-fee or to order~~ under section 35 of the Court-fees Act, 1871 remitting court-fees on such applications or petition for a permit. The latter course is preferable.

Id/- P.S.M.
22/11/44

any court-fee or to order under section 35 of the Court-fee Act, 1861 remitting court-fees on such applications or petition for a permit. The latter course is preferable.

Id/-

P.N.M.

22/11/44

Remembrancer of Legal Affairs.

U.R. to H.D.(A.R.P.),No.8235,dated 23rd November 1944.

R.D.P.
11/7/56

S.C.